



LEGISLATIVE FINANCE COMMITTEE

63rd Montana Legislature

Room 110 Capitol Building * P.O. Box 201711 * Helena, MT 59620-1711 * (406) 444-2986 * FAX (406) 444-3036

SENATE MEMBERS

MARY CAFERRO
LLEW JONES
RICK RIPLEY
JON SESSO
MITCH TROPILA
EDWARD WALKER

HOUSE MEMBERS

DUANE ANKNEY
ROB COOK
KIMBERLY DUDIK
STEVE GIBSON
GALEN HOLLENBAUGH
PAT NOONAN

JULIE JOHNSON, Staff Attorney
DIANE MCDUFFIE, Secretary
AMY CARLSON, Director

MINUTES

June 12, 2013

Room 102, State Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. MARY CAFERRO
SEN. LLEW JONES
SEN. MITCH TROPILA

REP. DUANE ANKNEY
REP. ROB COOK
REP. KIMBERLY DUDIK
REP. STEVE GIBSON
REP. GALEN HOLLENBAUGH
REP. PAT NOONAN

COMMITTEE MEMBERS ABSENT

SEN. RICK RIPLEY
SEN. JON SESSO
SEN. EDWARD WALKER

STAFF PRESENT

JULIE JOHNSON, Staff Attorney
DIANE MCDUFFIE, Secretary
AMY CARLSON, Director

VISITORS' LIST

Attachment #1

CALL TO ORDER AND ROLL CALL

- 00:00:01 The 224th meeting of the Legislative Finance Committee reconvened at 3:30 p.m. on June 12, 2013. The meeting was held in Hearing Room 102 of the State Capitol, Helena Montana. The secretary called roll. Attachment #2.
- 00:00:44 Chairman Jones requested staff to draft a letter potentially for committee approval. (Exhibit 1) Based upon the content of the testimony by Ms. Symons of the Montana Public Employees Retirement Administration on June 11, 2013, the LFC does not believe that the temporary emergency rules contained in MAR 2-43-478 address "an imminent peril to the public health, safety, or welfare". Also, the LFC believes that the legislature's intent and understanding when it enacted HB 454 was that the actuarial valuation for PERS as of June 30, 2013, would be based on the laws in effect on that date.
- 00:01:54 Jaret Coles, Legislative Services Division, provided a memo on Rulemaking, Administrative Rule Activity, and the statute dealing with Emergency or temporary rules (Exhibit 2) The committee may respond as members of the public and as a committee to give the agency direction on the proposed rule. Powers of individual members of a committee or legislature may petition the agency regarding the adoption or repeal of a rule.
- 00:05:37 Mr. Coles summarized the issue of "an imminent peril to the public health, safety, or welfare". Providing direction to the actuary is not a topic that addresses an imminent peril to the public health, safety, or welfare. According to statute emergency rules are only used in circumstances that truly and clearly constitute and existing imminent peril to the public health, safety, or welfare that cannot be averted or remedied by any other administrative act. The sufficiency of reasons for a finding of imminent peril to the public health, safety, or welfare is subject to judicial review upon petition by any person.
- 00:08:13 Sherry Scurr, Researcher, Legislative Services Division summarized the issue of legislative intent. The 63rd Legislature's intent and understanding when it enacted HB 454 was that the actuarial valuation for PERS as of June 30, 2013 would be based on the laws in effect on that date. The Legislature enacted HB 454 specifically to address the fact that based on the June 30, 2012, actuarial valuation did not amortize and the actuarial assumptions would not change until after HB 454 became effective on July 1, 2013. Thus, the Legislature did not expect that the reduction in the GABA or the provisions that terminate the contribution increases contained in HB 454 would be implemented in a circular manner by having the actuary assume that HB 454 was in effect for the purposes of June 30, 2013 actuarial valuation. The LFC requests that the Board repeal its temporary emergency rules, instruct PERS actuary to conduct its actuarial valuation as of June 30, 2013 based only on the laws in effect on that date, and inform the LFC and the State Administration and Veterans' Affairs Interim Committee of the Board's final decision.

COMMITTEE DISCUSSION AND QUESTIONS

00:10:20 Sen. Jones
00:10:57 Sen. Tropila

PUBLIC COMMENT

00:13:03 Melanie Symons, Chief Legal Counsel, MPERA (Exhibit)
00:15:46 Sheryl Wood, Associate Director, MACO
00:16:47 Jessie Luther, Association of Montana Retired Public Employees

APPROVAL OF THE LETTER

00:19:12 **MOTION:** Rep. Hollenbaugh moved to approve the letter drafted by staff as amended. **VOTE:** Motion passed. Sen. Sesso voted yes by proxy. (Attachment #3)

00:21:14 The next meeting of the Legislative Finance Committee is September 26-27.

ADDITIONAL PUBLIC COMMENT

00:21:19 Harold Blattie, Executive Director of the Montana Association of Counties.

ADJOURNMENT

00:23:10 With no further business before the committee, Chairman Jones adjourned the meeting.

Senator Jones, Chairman

Diane McDuffie, Committee Secretary